

Search notes  
09/817251



Bescheld/Protokoll (Anlage)

Communication/Minutes (Annex)

Notification/Procès-verbal (Annexe)

Datum  
Date  
Date  
02.08.2004

Blatt  
Sheet  
Feuille  
1

Anmelde-Nr.:  
Application No.: 01 107 443.2  
Demande n°:

The examination is being carried out on the **following application documents**:

Text for the Contracting States:

AT BE CH CY DE DK ES FI FR GB GR IE IT LU MC NL PT SE TR LI

**Description, pages:**

1-10 as originally filed

**Claims, No.:**

1-10 as originally filed

**Drawings, sheets:**

1/1 as originally filed

The following documents (D) are referred to in this communication; the numbering will be adhered to in the rest of the procedure:

- D1: EP-A-0 670 483 (FUJI PHOTO FILM CO LTD) 6 September 1995 (1995-09-06)  
D2: WO 93 25309 A (KAARTINEN NILO) 23 December 1993 (1993-12-23)

**1-** The present application does not meet the requirements of Article 52(1) EPC, because the subject-matter of claims 1,3,7,8-10 is not new in the sense of Article 54(1) and (2) EPC.

**Claim 1:**

D1 discloses a method for stirring a liquid (see title and abstract), comprising:  
sucking a part of a liquid from a liquid-containing container which opens at the top thereof;  
and discharging the sucked liquid into the container at a discharging position which is horizontally different from a sucking position where the liquid has been sucked (see Figs. 2a-2g, specially 2f-2g and page 6, lines 49-53. Page 8, lines 39-45 show that the pipette tip can also be inclined to get a discharging position horizontally different from the sucking position.

**Claim 3:**

In D1, the sucking and discharging can also be repeated several times (page 6, lines 57-58)

**Bescheld/Protokoll (Anlage)**

Datum  
Date 02.08.2004  
Date

**Communication/Minutes (Annex)**

Blatt  
Sheet 2  
Feuille

**Notification/Procès-verbal (Annexe)**

Anmelde-Nr.:  
Application No.: 01 107 443.2  
Demande n°:

**Claim 7:**

In D1, the liquid may also be blood (page 3, line 1).

**Independent apparatus claim 8:**

For the reasons given above for claim 1, and further Figs 3a-3e, 4a-4e show clearly that the stirring apparatus has means for moving the pipette in an horizontal direction.

**Claim 9:**

(any of the container shown in Figs 3a-4e).

**Claim 10:**

The tip of the pipette is a nozzle.

2 The additional subject-matter of claims 2, 4-6 contain no features going beyond of what can be expected from a skilled man in the art and hence the claims lack an inventive step (Article 56 EPC).

3 It is not at present apparent which part of the application could serve as a basis for a new, allowable claim. Should the applicant nevertheless regard some particular matter as patentable, an independent claim should be filed taking account of Rule 29(1) EPC. The applicant should also indicate in the letter of reply the difference of the subject-matter of the new claim vis-à-vis the state of the art and the significance thereof.

4 When filing amended claims the applicant should at the same time bring the description into conformity with the amended claims. Care should be taken during revision, especially of the introductory portion and any statements of problem or advantage, not to add subject-matter which extends beyond the content of the application as originally filed (Article 123(2) EPC).

5 To meet the requirements of Rule 27(1)(b) EPC, the document D1 should be identified in the description and the relevant background art disclosed therein should be briefly discussed.

6 The description should be self contained, and the inclusion of subject matter by "incorporated by reference" should be deleted. Description page 10, line 3. See the Guidelines C-II, 4.18.

**Bescheld/Protokoll (Anlage)**

Datum  
Date  
Date 02.08.2004

**Communication/Minutes (Annex)**

Blatt  
Sheet  
Feuille 3

**Notification/Procès-verbal (Annexe)**

Anmelde-Nr.:  
Application No.: 01 107 443.2  
Demande n°:

7 The "from the spirit and scope of the invention" statement in the description on page 10 implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity of the claims (Article 84 EPC) when used to interpret them (see the Guidelines, C-III, 4.3a). This statement should therefore be amended to remove this inconsistency.

8 The features of the claims should be provided with reference signs placed in parentheses to increase the intelligibility of the claims (Rule 29(7) EPC). This applies to both the preamble and characterising portion (see the Guidelines, C-III, 4.11).

Gérard MULLER